



# Non-Conforming Use Determination

Handout #52 - Revised 08/17/04

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## What is a non-conforming use?

This is a use that does not conform to currently applicable standards or regulations but was in conformance with the standards at the time of inception.

## What are the categories of non-conformities?

Non-conformities typically occur in three general categories or combinations:

1. Non-conforming lots – Typically these have substandard size or dimensions.
2. Non-conforming structures – Typically these have substandard setbacks or excessive heights; and,
3. Non-conforming uses – The use is inconsistent with the allowances or procedures of the underlying district (e.g., multiple family dwelling units in a single-family zone).

## What is the difference between legal and illegal non-conformities?

There are two methods for establishing non-conforming legal status:

### Legal Non-conformity:

This applies to those uses, structures or lots which in whole or part are not in conformance with current zoning standards, but were legally established as a prior date when they were in conformance with applicable standards. Such uses structures or lots may be maintained or potentially altered subject to the provisions of CCC 40.530 Non-conforming Uses, Structures and Lots.

### Illegal Non-conformity:

This applies to those uses, structures or lots that in whole or part are not in conformance with current zoning standards and were not in conformance with applicable standards at the time of their inception. Such illegal nonconforming uses, structures or lots shall not be approved for any alteration or expansion, and shall undertake necessary remedial measures to reach conformance with current standards or be discontinued.

## Who bears the burden of demonstrating a non-conforming legal status?

The owner or the applicant (proponent of such conformity) bears the full burden of establishing that any non-conformity is a legal non-conformity. Depending on the type of application, examples of acceptable proof include, but are not limited to, business license, tax returns, business transaction receipts, utility statements, and dated aerial photographs. Additional information may be required for proving intensity and size of the operation.

**When are legal non-conforming uses considered abandoned?**

They are considered abandoned if the legal non-conforming use ceases for a period of six (6) months or more, or is changed to a conforming use.

**Can a non-conforming use be changed to another non-conforming use?**

The responsible official may allow, subject to a Type II review, a legal non-conforming use to be changed to another legal non-conforming use only if all of the following conditions are met:

The proposed new use can be clearly demonstrated to involve equal or lesser adverse impacts as it relates to the existing surrounding area, or as the surrounding area is likely to develop in the future.

1. The proposed new use will involve minimal structural alteration;
2. The proposed new use will not increase the amount of space occupied by the existing non-conforming use, except if the building had been legally designed in anticipation of such expansion.

**What is the requirement for processing requests for the expansion or alteration of legal non-conforming uses and associated structures?**

Other than single-family dwellings or duplexes, legal non-conforming uses may undergo expansion or alteration as site plan review projects subject to CCC Section 40.520.040. This may require a conditional use permit subject to CCC Section 40.520.030, if the Responsible Official finds that the proposed expansion raises significant community concerns.

**Can I rebuild if a structure containing a non-conforming use is destroyed?**

If a structure containing a non-conforming use is destroyed by any cause leading to a loss of sixty percent (60%) or greater of the structure’s latest appraised value, any future structure on the site shall conform to regulations of the underlying zoning district.

**What are the fees?**

Non-conforming use determination	\$ 188
Review of request to change non-conforming use	\$1, 571

**Can the responsible official’s decision be appealed?**

The Responsible Official’s decision may be appealed to the County Hearings Examiner by the applicant or any person or group. An appellant must submit an appeal application and **\$1070** fee within 14 calendar days after the written notice of the decision.

**Note: This handout is not a substitute for county code. For more detailed information, please refer to Clark County Code 40.530 Nonconforming Uses, Structures and Lots.**

**Public Service Center  
Department of Community Development  
1300 Franklin Street  
P.O. Box 9810  
Vancouver, WA 98666-9810  
Phone: (360) 397-2375; Fax: (360) 397-2011  
Web Page at: <http://www.clark.wa.gov>**



**ADA COMPLIANCE PROGRAM:**

For an alternate format, contact the Clark County ADA  
Compliance Office, V (360) 397-2375-2025; TTY (360) 397-2445;  
E-Mail: [ADA@clark.wa.gov](mailto:ADA@clark.wa.gov)

# DEVELOPMENT REVIEW APPLICATION FORM

(Form DS1000-Revised 12/4/03)



<b>PROJECT NAME:</b>		
<b>TYPE(S) OF APPLICATION (See Reverse Side):</b>		
<b>DESCRIPTION OF PROPOSAL:</b>		
<b>APPLICANT NAME:</b>		<b>Address:</b>
E-mail Address:		<b>Phone and Fax:</b>
<b>PROPERTY OWNER NAME</b> (list multiple owners on a separate sheet):		<b>Address:</b>
E-mail Address:		<b>Phone and Fax:</b>
<b>CONTACT PERSON NAME</b> (list if not same as APPLICANT):		<b>Address:</b>
E-mail Address:		<b>Phone and Fax:</b>
<b>PROJECT SITE INFORMATION:</b>		<b>Comp Plan Designation:</b>
Site Address:		
Cross Street:	Zoning:	Serial #'s of Parcels:
Overlay Zones:	Legal:	Acreage of Original Parcels:
Township:	Range:	¼ of Section:

## AUTHORIZATION

The undersigned hereby certifies that this application has been made with the consent of the lawful property owner(s) and that all information submitted with this application is complete and correct. False statements, errors, and/or omissions may be sufficient cause for denial of the request. This application gives consent to the County to enter the properties listed above.

\_\_\_\_\_  
Authorized Signature

\_\_\_\_\_  
Date

<b>Assigned at Customer Service Center</b>	<b>CASE NUMBER:</b>	
	<b>WORK ORDER NUMBER:</b>	

## **APPLICATION TYPES**

If you have any questions regarding the type of application being requested, our Customer Service Center will be happy to assist you.

- Annual Review
- Appeal
- Boundary Line Adjustment and Lot Reconfiguration
- Conditional Use

### **Environmental/Critical Areas:**

- Archaeological
- Critical Aquifer Recharge Area (CARA)
- Columbia River Gorge
- Forestry + (Moratorium Waiver, Moratorium Removal, Class I, Class IVG or COHP)
- Floodplain
- Geological
- Habitat
- Historic
- SEPA
- Shoreline
- Wetland

### **Land Division:**

- Binding Site Plan
- Final Plat
- Plat Alteration
- Short Plat (\_\_\_ Infill)
- Subdivision (\_\_\_ Infill)

### **Miscellaneous:**

- Addressing
- Accessory Dwelling
- Covenant Release
- Garden Shed Setback Waiver
- Home Occupation
- Legal Lot Determination & Innocent Purchasers Determination
- Non-Conforming Use Determination
- Reconstruct Letter
- Sewer Waiver
- Shooting Range
- Sign

### **Planning Director Review:**

- Post Decision
- Pre-Application Conference
- Pre-Application Waiver
- Public Interest Exception
- Similar Use
- Temporary Use
- Other

- Planned Unit Develop/Master Plan
- Road Modification
- Site Plan
- Variance
- Zone Change

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